## NEW BOOKS.

### The Supreme Court Decisions in the Porto Rico Cases.

The brochure entitled "Two Treaties of Paris and the Supreme Court," by Sidney Webster (Harpers), is certain to be widely read, not only because of the intrinsic interest and importance of the subject, but because of the writer's well-known competence to treat it. We should note that the range of the discussion is imperfectly indicated by the title, the author having almost as much to say about the treaty of Guadalupe Hidalgo and its political sequel as about the Louisiana Treaty and the events that followed it. The usefulness of an analysis of the decisions handed down by the United States Supreme Court in the Porto Rico cases will be apparent when the fact is pointed out that the opinions of the Justices fill 166 closely printed octavo pages, two-thirds of which are occupied by the *Downes* case, that raised the question of the constitutionality of the Foraker law. It is evident that only a small part of the opinions could be published by newspapers on the morning after the announcement of the decisions. Mr. Webster has rendered a public service by undertaking a task the difficulty of which he recognizes, the task, namely, of "blazing a clear pathway through the thicket of executive, judicial, legislative and historical precedents that the counsel and the court encountered."

Owing, doubtless, to inadvertency in the reading of proofs the types once or twice make the writer say the opposite of what he manifestly meant to say. Thus on page 43 we read that it was Justice Brown's "opinion that the island [Porto Rico] was sufficiently 'foreign' to avoid the Dingley law, but not sufficiently 'foreign' to escape the Foraker law." The context shows that Mr. Webster's intention was to assert the contrary, namely, that Porto Rico was sufficiently "domestic" to escape being affected by the Dingley law, but not sufficiently "domestic" to render the Foraker law inoperative. That this is Mr. Webster's meaning is clear from what he says on pages 41-2 and again on pages 43-4. Speaking, for example, of the De Lima case, he points out that a majority of the court, including Justice Brown, decided "that sovereignty is a test whether territory is foreign or domestic; that by ratification of the Treaty of Paris Porto Rico became domestic territory of the United States; that a law of Congress establishing a custom house in Porto Rico and appointing a Collector was not needed to make it domestic territory; that a country ceded to and in possession of the United States ceased to be foreign, and therefore the duties levied under the Dingley law were unlawfully exacted." A little later, in the discussion of the *Downes* case, we are told that Justice Brown affirmed that Porto Rico is only "appurtenant and belonging to the United States, but not a *part* of the United States within the revenue clauses of the Constitution." In other words, as we have noted, Porto Rico is domestic enough to avoid the Dingley law, but not sufficiently domestic to escape the Foraker law. Mr. Webster goes on to mention that Justice Brown declared that "neither the Constitution, nor revenue laws of the United States enacted before the cession of Porto Rico, extended over the island *ex proprio vigore*; that Congress, when legislating for Porto Rico, was not restrained by the Constitution, excepting when and so far as Congress restrained itself, but that, after Congress has extended the Constitution over an acquired territory, the extension cannot be withdrawn and Congress is forever bound by it."

Another instance of inadvertence will be found on page 80. Referring to an unpublished private diary kept by President Polk, some interesting extracts from which are printed in this volume, our author says that the diary "leaves no doubt of his [Polk's] zealous efforts to open the closure created by the slavery question." The term closure, as it is now used, signifies a parliamentary device intended to remove an obstruction to legislation. Mr. Webster here uses the word, as if it were itself synonymous with obstruction. What he has in view is the deadlock created by the slavery problem between the two houses of Congress, the Senate being in the hands of Democrats, and the other house being controlled by Whigs, a deadlock which postponed legislation for California.

The author sums up his discussion of the decision rendered in the *Downes* case by pointing out that in the view taken by five of the Justices—Brown, Gray, White, Shiras and McKenna—the political division of our country, excluding, of course, Indian reservations, is, since the acquisition of our new islands, a division into (1) States, (2) territories, and (3) insular possessions, the second class incorporated, perhaps, but the third not incorporated. He goes on to remind us that, "after the Virginia and Kentucky resolutions of 1798 and the case of McCulloch vs. Maryland, there was long and fierce debate over the relation of the Federal Government to the States; and, after the acquisition of Louisiana, came a long and fierce debate over the relation of the Federal Government to the territories, which led up to the War of Secession and the Thirteenth Amendment of the Constitution.

"Are there," he adds, "to be protracted and exasperating partisan disputes over the relation of the Government at Washington to our insular possessions?" For the misgivings disclosed in the last sentence we are unable to discern any grounds, either in abstract considerations of possible future trouble, or in any visible symptoms of violent agitation on the part of public opinion. So far as we are able to read the signs of the times, public opinion is more and more disposed to acquiesce in the view taken by the majority of the United States Supreme Court in the *Downes* case. Neither, because Porto Rico has been declared to be not a part of the United States within the revenue clauses of the Constitution, should we hear with trepidation the prediction that "eventually the shackles of our written Constitution will be evaded or broken, and an omnipotent Congress will appear in Washington imitating an omnipotent Parliament in London." Mr. Webster himself seems to recognize that such a state of things is improbable.

The brochure ends with the question: Who is to make laws for the millions of the yellow races inhabiting the Philippines? We answer that, under the decision in the *Downes* case, all legislation needed for the purpose will be furnished in due time by the power from which emanated the Foraker law, to wit: The Congress of the United States. M. W. H.

### The English Lake Country.

Of guide books and handbooks to the English Lakes there is no end. Too many of them are full of literary gush and twaddle. They foam with quotations. They are waterlogged with literary anecdotes. Lord, how a man gets to hate Wordsworth in that country! At certain seasons of the year it swarms with 'Arry and 'Arriet, with trippers and Cockneys. But there are still secluded nooks in it where you may be comparatively free from quotations.

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### Patrick Demands Speedy Trial.

Counsel for Albert T. Patrick, indicted for the murder of William Marsh Rice, made a motion yesterday in General Sessions before Judge Warren W. Foster to have Patrick put on trial at once. District Attorney Philbin opposed the motion, saying that the testimony was so voluminous that the prosecution's case could not be ready before December, if then. Judge Foster reserved decision.